

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 03-147
ACTION AGAINST)	
)	
Marilou Rickert)	Notice of Administrative
)	Charges
)	
Respondent.)	
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IT IS ALLEGED as follows:

I.
JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05 RCW, Administrative Procedure Act, and Title 390 WAC.

II.
LAW

RCW 42.17.530 states, in relevant part: (1) It is a violation of this chapter for a person to sponsor with actual malice: (a) Political advertising that contains a false statement of material fact about a candidate for public office.

(2) Any violation of this section shall be proven by clear and convincing evidence.

RCW 42.17.505 states in part: “(1) Actual malice” means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

III. **BACKGROUND**

On December 2, 2002, the Public Disclosure Commission received a complaint from Senator Tim Sheldon alleging that Marilou Rickert sponsored political advertising that contained a false statement of material fact about him during the 2002 campaign for State Senator in the 35th Legislative District.

IV.

FACTS

These charges incorporate the Report of Investigation and all of its exhibits by reference.

Senator Tim Sheldon was a candidate for re-election to the office of State Senator in the 35th Legislative District in 2002. His opponent was Marilou Rickert. Senator Sheldon was re-elected on November 5, 2002.

During the campaign, Ms. Rickert sponsored political advertising that was mailed to voters in the 35th Legislative District between October 16 and October 28, 2002. The advertisement was sent to a total of 34,032 registered voters at a total cost of \$7,939.

One page of the advertisement was a document entitled, **“THERE IS A DIFFERENCE!”** The document compared Ms. Rickert and Senator Sheldon on several issues. The fifth comparison stated that Marilou Rickert, *“Supports social services for the most vulnerable of the state’s citizens.”* It then stated that Tim Sheldon, *“Supported revenue measures that have forced reductions in services to the mentally ill, developmentally challenged, and their families; voted to close a facility for the developmentally challenged in his district and is advocating for the site to be turned into a prison.”* (Emphasis added.)

Senator Sheldon filed a complaint alleging that the statement, *“... voted to close a facility for the developmentally challenged in his district ...”* is false.

The investigation determined that the facility referred to in the political advertisement cited in Senator Sheldon's complaint is the Mission Creek Youth Camp. During the 2002 Legislative Session, the Senate voted to close Mission Creek Youth Camp when it passed SB 6387. The closure was part of the 2001-03 Revised Omnibus Operating Budget (2002 Supplemental Appropriation). The Senate voted to approve closure of Mission Creek Youth Camp when it passed ESSB 6387. The voting record from the Senate demonstrated that Senator Sheldon voted against both SB 6387 and ESSB 6387.

On May 24, 2002, an article appeared in the Bremerton Sun stating that the Legislature had voted to close Mission Creek Youth Camp when it passed its budget in March 2002. The article stated that according to Senator Sheldon, he voted against the budget proposal, in part because of the proposed Mission Creek closure.

Mission Creek Youth Camp is a rehabilitation facility for juvenile offenders. Since the 1960's it has been a medium security facility operated by the Department of Social and Health Services (DSHS) for juvenile offenders convicted of felony-level offenses. It is not a facility operated by DSHS for the developmentally challenged.

Ms. Rickert stated that she based her statement in the advertisement, "... *voted to close a facility for the developmentally challenged in his district...*" on conversations with Dave Wood, a lobbyist for Action for Residential Habilitation Centers, and took no independent action to verify the accuracy of the statement. She also admitted that this statement was false. On November 13, 2002, following the election, Ms. Rickert sent a letter to four area newspapers in an effort to clarify the statement in her political advertisement that was the source of the complaint.

V. CONCLUSION

Staff alleges, based on the facts specified in Section IV, that Marilou Rickert sponsored with actual malice political advertising that contained a false statement of material fact about Senator

Tim Sheldon, a candidate for State Senator in the 35th Legislative District during the 2002 election.

Ms. Rickert acknowledged that the statement, “... *voted to close a facility for the developmentally challenged in his district...*” was in fact a false statement. Both parties agreed that support for social services was an important issue to voters in this district. The statement in the advertisement drew a sharp contrast between Senator Sheldon and his opponent, Ms. Rickert. It attempted to cast Senator Sheldon in an unfavorable light concerning his handling of social service issues. The false statement that Senator Sheldon voted to close a facility for the developmentally challenged in his district was a false statement of material fact.

“Actual Malice” is defined in RCW 42.17.505 and means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Ms. Rickert made no effort to ascertain the authenticity of her statements. She could have easily determined the truth of Senator Sheldon’s voting record on this issue to find out whether Senator Sheldon voted for or against the Legislature’s 2002 budget that closed Mission Creek Youth Camp. She simply made no effort to do so. In addition, Ms. Rickert should have known or could have easily determined whether Mission Creek Youth Camp was a facility for the developmentally challenged. She again made no effort to verify the truthfulness of this part of the statement in her political advertisement.

There is clear and convincing evidence that Marilou Rickert violated RCW 42.17.530(1)(a) with reckless disregard as to truth or falsity when she distributed political advertising that made a false statement of material fact about Senator Tim Sheldon.

RESPECTFULLY SUBMITTED this 5th day of May, 2003.

/s/

Philip E. Stutzman
Director of Compliance